

Case 1:18-cv-00034-MAC-CLS Document 40 Filed 07/26/22 Page 1 of 2 PageID #: 195

EASTERN DISTRICT OF TEXAS

TODD WARREN ALTSCHUL,

Petitioner,

versus

UNITED STATES OF AMERICA,

Respondent.

CIVIL ACTION NO. 1:18-CV-34

MEMORANDUM OPINION AND ORDER

Petitioner Todd Warren Altschul, currently a state prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court referred this matter to a United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommended petitioner should be denied permission to proceed as a sanctioned litigant. Additionally, the magistrate judge determined the petition was frivolous and the respondent's motion to dismiss should be granted. Petitioner filed objections to the report and recommendation. The court conducted a *de novo* review and determined petitioner's objections lacked merit. Accordingly, the report was adopted and a final judgment was entered.

Petitioner has filed a motion for reconsideration of the final judgment (#39). Petitioner argues that the failure to consider the merits of his petition because of sanctions imposed against him was incorrect.

Analysis

Rule 60, FED. R. CIV. P., provides in pertinent part:

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud ..., misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed

or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

After careful consideration of petitioner's motion, the court is of the opinion that petitioner's motion fails to set forth a meritorious ground warranting relief from the judgment. For the reasons set forth in the report and the memorandum order overruling petitioner's objections, the court finds petitioner's motion lacks merit. Accordingly, petitioner's motion for relief from the judgment should be denied.

ORDER

For the reasons set forth above, petitioner's motion for relief from judgment should be denied. It is therefore,

ORDERED that petitioner's motion for relief from judgment is **DENIED**.

SIGNED at Beaumont, Texas, this 26th day of July, 2022.

A handwritten signature in black ink, reading "Marcia A. Crone", is positioned above a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE